

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 6, 2006

TO: Persons on the attached mailing list.

RE: City of Aledo
TPDES Permit No. WQ0010847001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at City of Aledo, City Hall, 200 Old Annetta Road, Aledo, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

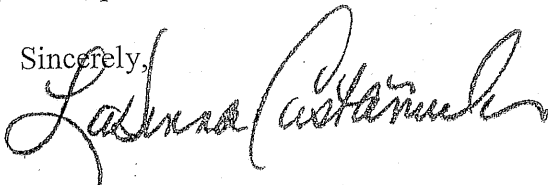
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/cz

Enclosures

MAILING LIST
for
City of Aledo
TPDES Permit No. WQ0010847001

FOR THE APPLICANT:

Mack Wofford
City of Aledo
P.O. Box 1
Aledo, Texas 76008-0001

Gary Burton, III, P.E.
Gary Burton Engineering Inc.
14531 State Highway 155 South
Tyler, Texas 75703

PROTESTANTS/INTERESTED PERSONS:

Woody Frossard
Tarrant Water Regional District
P.O. Box 4508
For Worth, Texas 76164-0508

Martin Siegmund
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Aledo, Texas 76008

FOR THE EXECUTIVE DIRECTOR:

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Michael Redda, Technical Staff
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FOR OFFICE OF PUBLIC ASSISTANCE:

Jodena Henneke, Director
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Office of Public Assistance MC-108
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FOR PUBLIC INTEREST COUNSEL:

Blas J. Coy, Jr., Attorney
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FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

TCEQ PERMIT NO. WQ0010847001

APPLICATION BY

CITY OF ALEDO

FOR PERMIT NO. WQ0010847001

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the City of Aledo's (Applicant) application and ED's preliminary decision. As required by 30 Texas Administrative Code (TAC) Section 55.156, before a permit is issued, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the Tarrant Regional Water District (TRWD) and Mr. Martin O. Siegmund. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

The Applicant has applied to the TCEQ for an amendment of its existing permit to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 350,000 gallons per day (GPD) to a daily average flow not to exceed 600,000 GPD. In addition, the Applicant proposes to change the technique of disinfection from the current chlorination to an ultraviolet system. The existing wastewater treatment facility serves the City of Aledo.

The treated effluent is discharged to an unnamed tributary of Clear Fork Trinity River; thence to the Clear Fork Trinity River Below Lake Weatherford in Segment No. 0831 of the Trinity River Basin. The unclassified receiving water uses are no significant aquatic life uses for the unnamed tributary of Clear Fork Trinity River. The designated uses for Segment No. 0831 are high aquatic life uses, public water supply and contact recreation. The facility is located approximately 0.5 mile west of the intersection of Farm-to-Market Road 5 and Farm-to-Market Road 2376 in the City of Aledo in Parker County, Texas.

Procedural Background

The permit application was received on April 28, 2006 and declared administratively complete on June 05, 2006. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was

published on June 30, 2006 in *The Community News*. The Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published on September 29, 2006 in *The Community News*. The public comment period ended on October 30, 2006. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

TRWD is concerned about the impact the discharge from the City of Aledo Wastewater Treatment Facility will have upon the attainment of the designated uses of the receiving water, and would like a phosphorus limit included in the permit because of high phosphorus in Lake Benbrook.

RESPONSE 1:

The proposed draft permit was developed to protect aquatic life and human health in accordance with the Texas Surface Water Quality Standards. The TCEQ understands TRWD's concerns regarding phytoplankton growth in Texas reservoirs. However, according to our typical procedures, the TCEQ does not apply phosphorus limits to minor municipal permittees that are not discharging to a lake setting or a segment listed for nutrients. The requirements in the proposed draft permit were established to be protective of human health and the environment as long as the Applicant operates and maintains the facility according to TCEQ rules and the requirements in the proposed draft permit.

As part of the permit application process, TCEQ must determine the uses of the receiving water and set effluent limits that are protective of those uses. The effluent limits in the proposed draft permit are set to maintain and protect the existing in stream uses. In this case, the receiving stream uses are no significant aquatic life uses for the unnamed tributary of Clear Fork Trinity River. The designated uses for Segment No. 0831 are high aquatic life uses, public water supply and contact recreation. The Executive Director determined that these uses will be protected if the facility is operated and maintained as required by the proposed permit and regulations.

This facility will discharge in its final phase capacity 600,000 GPD into segment No. 0831 of the Trinity River Basin which is not listed on the 2004 303(d) list as impaired for nutrients. Lake Benbrook, Segment No. 0830, is located downstream of Segment 0831. Segment No. 0830 is not listed as impaired on the 2004 303(d) list for any criteria.

COMMENT 2:

TRWD also asks the TCEQ to postpone action on this permit until a regional wastewater plan is developed.

RESPONSE 2:

TCEQ evaluates applications for wastewater treatment plants, based on the information provided in the application to determine if the proposed discharge can comply with the Texas Surface Water Quality Standards, codified in Title 30, Chapter 307 of the Texas Administrative Code. If it is determined that the proposed discharge, made in compliance with the draft permit, will be protective of human health and the environment, the ED does not typically postpone processing a

permit application while a group is doing a study of whether to create a regional wastewater treatment plant.

COMMENT 3:

Mr. Martin O. Siegmund is concerned about odor problems coming from the wastewater treatment plant. Mr. Martin also states that the city does not own the required buffer zone area and the buffer zone encroaches onto his property.

RESPONSE 3:

TCEQ rules require domestic wastewater treatment facilities to meet buffer zone or other requirements for the abatement and control of nuisance odor according to 30 TAC Section 309.13(e). These rules provide three options for applicants to satisfy the nuisance odor abatement and control requirement. An applicant can meet this requirement by ownership of the buffer zone area, by restrictive easement from the adjacent property owners for any part of the buffer zone not owned by the Applicant, or by providing odor control. The Applicant is intending to meet the buffer zone requirements by providing sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30 TAC Section 309.13(e)(3), or by providing nuisance odor prevention in accordance with 30 TAC Section 309.13(e)(2). If the facility has problems with odor or other issues that need to be addressed, contact the TCEQ at 1-888-777-3186 to reach the TCEQ region office in your area.

Also, the draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or property.

COMMENT 4:

Mr. Martin O. Siegmund is concerned about noise coming from the plant limiting the use and enjoyment of his property.

RESPONSE 4:

In the wastewater permitting process TCEQ is tasked by the Legislature with protecting the quality of the water in the state. The potential for noise is not a factor in determining whether an applicant has met all of the statutory and regulatory criteria applicable to a wastewater permit.

The draft permit does not limit the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or actually do result in injury or adverse effects on human health or welfare, animal life, vegetation, or property, or that may or actually do interfere with the normal use and enjoyment of animal life, vegetation, or

property.

COMMENT 5:

In addition, Mr. Martin O. Siegmund is concerned about the potential dangers of a chlorine leak entering is property.

RESPONSE 5:

In the major amendment to their permit, the Applicant is proposing to switch from chlorine disinfection in the interim phase to ultraviolet disinfection in the final phase. Once the Applicant enters the final phase, based on this change, there should be no chlorine on site.

CHANGES MADE TO THE DRAFT PERMIT IN RESPONSE TO COMMENT

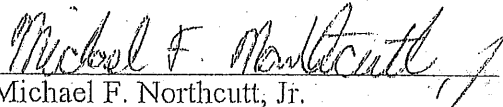
No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle
Executive Director

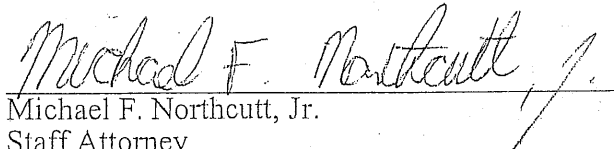
Robert Martinez, Director
Environmental Law Division


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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on December 1, 2006, the "Executive Director's Response to Public Comment" for Permit No. WQ0010847001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



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